

**AFFIDAVIT**

I, the undersigned,

**SIVIWE GWARUBE**

**IDENTITY NUMBER: [REDACTED]**

hereby make oath and state that:

**THE DEPONENT**

1. I am an adult female of full legal capacity and a member of the National Assembly of the Republic of South Africa, employed as such at the Parliament of the Republic of South Africa, 120 Plein Street, Cape Town.
2. Unless expressly stated or the context indicates otherwise, the facts contained in this affidavit fall within my personal knowledge and are to the best of my belief both true and correct.

**PURPOSE OF THIS AFFIDAVIT**

3. This affidavit concerns the laying of a complaint at the Joint Committee on Ethics and Members' Interests (hereinafter, "**the Committee**") against the Hon. Nosiviwe Mapisa-Nqakula, the Speaker of the National Assembly of the Republic and a Member of Parliament (hereinafter, "**the Speaker**").
4. I depose this affidavit in my capacity as a concerned citizen, and as a Member of Parliament representing a sizable constituency that are directly affected by the incidents detailed hereunder.
5. It is my belief that the acts detailed hereunder warrant further investigation by the Committee.

## **BACKGROUND**

6. The Speaker is a Member of the National Assembly.
7. During the period 2012 to 2021, the Speaker was the Minister of Defence and Military Veterans ("**Minister of Defence**").
8. In an article published by the *Sunday Times* on 3 March 2024, it was reported that the Speaker is under investigation by the Investigating Directorate for allegedly soliciting and accepting up to R2,3 million in bribes from one Nombasa Ntsondwa-Ndhlovu (who is reported to be the wife of Maj. Gen. Noel Ndhlovu, a general in the South African National Defence Force ("**SANDF**") ("**Ntsondwa-Ndhlovu**") between 2016 and 2019, whilst the Speaker was the Minister of Defence.
9. Ntsondwa-Ndhlovu is further reported to be the owner of an entity called Umkhombe Marine, a company that received some R210 million worth of contracts from the SANDF. *Sunday Times* avers that Maj. Gen. Ndhlovu was investigated by the military police in relation to his involvement in the award of these contracts.
10. Further reports from the *Sunday Times* article include that:
  - 10.1. the Speaker first solicited a bribe from Ntsondwa-Ndhlovu in November 2016 in the sum of R300,000.00, albeit through an interlocutor;
  - 10.2. Ntsondwa-Ndhlovu and the Speaker met at the InterContinental hotel at OR Tambo International Airport in or about December 2016, where the Speaker admitted that she had solicited the aforesaid bribe;
  - 10.3. Ntsondwa-Ndhlovu had made several cash payments to the Speaker over a span of approximately nine years, including:
    - 10.3.1. R200,000.00 in July 2017;
    - 10.3.2. R150,000.00 in November 2017;
    - 10.3.3. R150,000.00 in September 2018;

10.3.4. R300,000.00 in February 2019; and

10.3.5. R400,000.00 in April 2019.

**ALLEGED VIOLATIONS OF THE CODE OF ETHICAL CONDUCT AND DISCLOSURE OF MEMBERS' INTERESTS**

**INTRODUCTION**

11. I submit that the Speaker's conduct as set out above, if found to be true, constitutes a grave violation of the Code of Ethical Conduct and Disclosure of Members' Interest (hereinafter, "**the Code of Conduct**").

12. The Code of Conduct provides that Members are prohibited from:

12.1. acting in a way that is inconsistent with their position (section 2.3.(c) of the Code);

12.2. using their position or information entrusted to them, to enrich themselves or improperly benefit any other person (section 2.3.(d) of the Code);

12.3. using information received in confidence in the course of their duties otherwise than in connection with the discharge of their duties (section 2.3.(e) of the Code);  
and

12.4. exposing themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests (section 2.3.(f) of the Code).

13. The Code of Conduct sets out certain principles to which each Member of Parliament must adhere. These are as follows (emphasis excluded):

*2.4.1 Selflessness: take decisions solely in terms of public interest and without regard to personal financial or other material benefits for themselves, their immediate family, their business partners, or their friends;*

*2.4.2 Integrity: steadfastly avoid placing themselves under any financial or other obligation to any outside individual or organization where this*

*creates a conflict or potential conflict of interest with his or her role as a Member;*

**2.4.3 Objectivity:** *in carrying out public business, including making public appointments, do so only on the basis of merit and in accordance with Constitutional imperatives;*

**2.4.4 Openness:** *Members should be as open as possible about all decisions and actions, bearing in mind the constitutional obligation for openness and transparency;*

**2.4.5 Honesty:** *Members must declare private interests relating to public duties and resolve any conflict arising in a way that protects public interest; and*

**2.4.6 Leadership:** *promote and support ethical conduct by leadership and example.*

14. The Code of Conduct further sets out certain standards of ethical conduct which all Members of Parliament must uphold, as follows:

**4.1** *Members must:*

**4.1.1** *abide by the principles, rules and obligations of this Code;*

**4.1.2** *by virtue of the oath or affirmation of allegiance taken by all elected Members, uphold the law;*

**4.1.3** *act on all occasions in accordance with the public trust placed in them;*

**4.1.4** *discharge their obligations, in terms of the Constitution, to Parliament and the public at large, by placing the public interest above their own interests;*

15. With respect to conflicts of financial or business interests, the Code of Conduct provides, *inter alia*, that a member of Parliament must not accept any reward, benefit or gift from any person or body that *"creates a direct conflict of financial or business interest for such Member"* (section 5.2.1.(i) of the Code of Conduct), or that *"is intended or is an attempt to corruptly influence that Member in the exercise of his or her duties or responsibilities as a public representative"* (section 5.2.1.(ii) of the Code of Conduct).

16. The Code of Conduct further provides that a Member must:

**5.2.2** *not use his or her influence as a public representative in his or her dealings with an organ of State in such a manner as to improperly advantage the direct personal or private financial or business interests of such Member or any*

*immediate family of that Member or any business partner of that Member or the immediate family of that Member;*

5.2.3 *not engage in any personal or private financial or business activity, which leads to his or her using information or knowledge acquired in his or her dealings with an organ of State as a public representative which is not available in the public domain, in such a manner as to improperly advantage the direct personal or private financial or business interests of such Member or any immediate family of that Member or any business partner of that Member or the immediate family of that Member;*

5.2.6 *if he or she makes representations as a Member to a Cabinet Member or any other organ of State with regard to a matter in which that Member or the immediate family of that Member or any business partner of that Member or the immediate family of that Member has a direct personal or private financial or business interest, that Member must declare that interest to that Cabinet Member or organ of State; or*

5.2.7 *not lobby for any remuneration or receive any reward, benefit or gift for that Member or for the immediate family of that Member or the business partner of that Member or immediate family of that Member, for making such representation as a Member on behalf of any person or body;*

17. The Code of Conduct expressly prohibits a Member's immediate family and business partners from receiving any benefit whatsoever, including a tender, or a contract with an organ of state arising out of the relationship or association with the Member or any influence arising out of that relationship (sections 6.2. and 6.3. of the Code of Conduct).

18. The Code of Conduct requires that Members disclose to the Registrar, in the prescribed form, and within 60 (sixty) days of the opening of Parliament or of the Member's appointment as a Member of Parliament (in the event that these do not coincide), *inter alia*:

18.1. *"gifts and hospitality in excess of R1500, from a source other than a family Member (sic) or permanent companion or gifts of a traditional nature provided that this does not create a conflict of interest for the Member (emphasis added) (section 9.3.6 of the Code of Conduct);*

- 18.1.1. including a description, the value, and source of that gift; and
  - 18.1.2. including hospitality intended as a gift in kind;
  - 18.2. "ownership in land and property including land and property outside the Republic" (section 9.3.9 of the Code of Conduct); and
  - 18.3. "any other benefit of a material nature" (section 9.3.7 of the Code of Conduct).
19. These provisions in the Code of Conduct echo the provisions of section 96(2)(c) of the Constitution which provides that Members of Cabinet may, unequivocally, not *"use their position or any information entrusted to them, to enrich themselves..."*.

#### **ALLEGED BREACHES OF THE CODE OF CONDUCT**

20. I submit that the Speaker's conduct as set out hereinabove, if found to be true, constitutes a violation of the Code of Conduct; in particular:
- 20.1. by failing to disclose (whether willfully or negligently, timeously or at all) in contravention of section 9.3 of the Code of Conduct (read with section 10.1.1.1 of the Code of Conduct) and accepting, in contravention of section 5.2.1 of the Code of Conduct (read with section 10.1.1.3 of the Code of Conduct), the sums referred to in paragraph 10.3. hereinabove, amongst others, from Ntsondwa-Ndhlovu, which created a conflict of interest for the Speaker;
  - 20.2. in relation to the funds received from Ntsondwa-Ndhlovu, by using her influence as a public representative in her dealings with an organ of state in such a manner as to improperly advantage her direct personal and/or financial and/or business interests and/or those of her immediate family and/or business partners, in contravention of, *inter alia*, sections 5.2.2 and 5.2.3 of the Code of Conduct (read with section 10.1.1.3 of the Code of Conduct);
  - 20.3. by failing to resolve and/or declare several financial and business conflicts of interest in which she was involved as a public representative in the public interest, in contravention of section 5.1 of the Code of Conduct (read with section 10.1.1.3 of the Code of Conduct).

21. The Speaker's conduct, if found to be true, is further in contravention of sections 2.3.(c), (d), (e), and (f) of the Code of Conduct.
22. I submit further that the Speaker's conduct, if found to be true, was also plainly in breach of the principles enshrined in section 2 of the Code of Conduct and that she has violated sections 2.4.1., 2.4.2., 2.4.4., 2.4.5., and 2.4.6 of the Code of Conduct, respectively.
23. In this regard, the Speaker failed to:
  - 23.1. "take decisions solely in terms of public interest and without regard to personal financial or other material benefits for [herself]";
  - 23.2. "steadfastly avoid placing [herself] under any financial or other obligation to any outside individual or organization where this creates a conflict or potential conflict of interest with his ... role as a Member";
  - 23.3. "carry[...] out public business ... on the basis of merit and in accordance with Constitutional imperatives";
  - 23.4. "be as open as possible about all decisions and actions, bearing in mind the constitutional obligation for openness and transparency";
  - 23.5. "declare private interests relating to public duties and resolve any conflict arising in a way that protects public interest"; and
  - 23.6. "promote and support ethical conduct by leadership and example".
24. I submit further that the Speaker, if the above reported conduct is found to be true, has breached the Code of Conduct by failing to meet the standards of ethical conduct by failing to abide by the principles of the Code of Conduct (section 4.1.1. of the Code of Conduct), failing to uphold the law (section 4.1.2. of the Code of Conduct), not acting in accordance with the public trust placed in her (section 4.1.3. of the Code of Conduct), placing her own interest above that of the public (section 4.1.4. of the Code of Conduct), and not engendering respect and confidence in Parliament or maintaining public confidence and trust in the integrity of Parliament (section 4.1.5. of the Code of Conduct).

25. I would respectfully urge the Committee to undertake a full investigation into the matter at hand.
26. Should any further facts come to light following this affidavit, or should the Committee require the same, I will ensure to supplement this affidavit, accordingly.

I herewith request that the matter be fully investigated, and the appropriate steps – whatsoever they may be - taken to see justice done and the rule of law upheld.

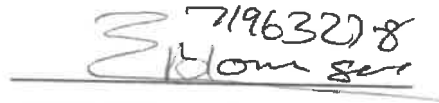
This is all I can declare.



**SIVIWE GWARUBE**

**IDENTITY NUMBER: [REDACTED]**

I CERTIFY THAT THIS AFFIDAVIT WAS SIGNED AND SWORN TO BEFORE ME AT CAPE TOWN ON THIS 5<sup>TH</sup> DAY OF MARCH 2024. THE DEPONENT HAVING ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT AND I CERTIFY THAT THE REGULATIONS IN TERMS OF SECTION 10 OF ACT 16 OF 1963, AS PUBLISHED UNDER GN. R1258 OF 21 JULY 1972 AS AMENDED BY GN. R1648 OF 1977 AND GN. R1428 OF 1980 AND GN. R773 OF 1982, HAVE BEEN COMPLIED WITH.



**COMMISSIONER OF OATHS**

FULL NAMES : E. Nom  
 DESIGNATION : SET  
 AREA : 120 PLEIN STREET  
 ADDRESS : PERMIT OFFICE

